

Before the  
Federal Communications Commission  
Washington, DC 20554

In the Matter of	)	
	)	CG Docket No. 05-231
Closed Captioning of Video Programming	)	
	)	
Notice of Proposed Rulemaking	)	
Released July 21, 2005	)	
	)	

REPLY COMMENTS OF THE HEARING ACCESS PROGRAM

DECEMBER 16, 2005

INTRODUCTION:

The Hearing Access Program is a collaborative effort between the Alexander Graham Bell Association for the Deaf and Hard of Hearing, The League for the Hard of Hearing/abc communication and Self-Help for the Hard of Hearing. Our goal is to assist entertainment venues, museums, theaters, amusement parks, cruise ships etc. achieve their goal of accessibility for the entire hard of hearing and deaf community. Our service is free unless technical assistance is needed.

DISCUSSION:

The Hearing Access Program offers the following Reply Comments in response to the FCC's Notice of Proposed Rulemaking adopted on July 14, 2005 concerning the closed captioning of television programs. The Hearing Access Program believes that there are some industry misconceptions that need clarifying. They are:

1. HBO's Comments

HBO submitted Comments against improving the quality of captioning. It is surprising that HBO has taken the position that spelling errors do not "affect the comprehensibility of a program". HBO on page 8 of their Comments stated that the "evidence" that was presented focused on "small errors" such as "foul" for "fowl" or "rights" for "rites" or "lane" for "lain". These are not small errors and they do affect the comprehensibility of programming. My daughter and I had a lengthy discussion over why the word, "flower" was used for baking instead of

"flour" on an episode of Martha Stewart. This is confusing to a child and affects how a child learns. A child should never think that spelling does not matter. It certainly does matter.

It is also interesting that the attorney of record, Benjamin Griffin stated to me in a conversation that we had about the brief that he does not watch television and has never watched captioning. It is irresponsible for someone to submit Comments on that which they do not know and yet affects such a large audience. Perhaps, if he watched television with captioning but with no sound then he might understand that poor spelling is not a "small error" and does affect the "comprehensibility of a program."

It is interesting that HBO's Comments contained no spelling errors. When I questioned Mr. Griffin about this, I was told, "proofreading is just what we do." Well, the same principle should apply to captioning. Captioning should be accurate because that is "just what we do" and it is no different than proof reading the Comments for submission to the FCC.

In HBO's Comments, there also was the suggestion that there was no "evidence to suggest a widespread pattern of problems", just merely "anecdotal evidence". To close that gap, the following are just some of the errors that I have gathered from our family's recent television viewing. Please note that this list is not inclusive or reflective of all the mistakes on a particular episode:

#### A. The Happy Elf 12/2/05

"Happy" appeared as "ppy".  
"You" appeared as "y".  
"Never" appeared as "ner".  
"Christmas" appeared as "chstmas".  
"Sense" appeared as "sse".  
"You" appeared as "u".  
"I'm gone" appeared as "l'ngone".  
"So" was mistaken for "wow".  
"What" appeared as "waht".  
"Gert" appeared as "Gurt".  
"Santa appeared as "Sant".  
"This one" appeared as "thisne".

#### B. Martha

1) November 14, 2005

"Decorative" appeared as "deck active".  
"Damask" appeared as "dam ask".  
"Sewed" appeared as "sowed".  
"Calling" appeared as "caug".

"Cows" appeared as "coys".  
"Squash juice" appeared as "scarb news".  
"Gelatin" appeared as "delton".  
"Solidified" appeared as "slidfight".  
"Chile" appeared as "chilly".  
"Earthenware" appeared as "eb ware".  
Words and sentences were deleted.

## 2) Unknown Date

"Valentino" appeared as "Valen Tino".  
"Karan" appeared as "Karon".  
"All of you" appeared as "awful you".  
"Turkey" appeared as "turkee".  
"Bite" appeared as "bout".  
"Lettuce" appeared as "lett ur".  
"Blueberry" appeared as "blue bery".  
"The New York Times" appeared as "Next Time".  
"Sweet potato" appeared as "sweet poetat".  
Again, sentences and words were deleted.

## 3) November 17, 2005

"Right back at you" appeared as "rye".  
"Scripts" appeared as "scrips".  
Again, words and sentences were deleted.

## 4) November 22, 2005

"Neapolitan" appeared as "knee poll on the".  
"Afghan" appeared as "fghan".  
"Two of them" appeared as "twoven".  
"Terrier" was appeared as "Tearer".  
"Exacto" appeared as "exacter".  
The Singer, Patti LaBelle's name was not spelled correctly.  
Plus, multiple sentences and words were deleted.

## 5) November 25, 2005

The potential names of the cats were not spelled correctly.  
"Himalayans" appeared as "mim layians".  
"Michael Wright" appeared as "Mike att".  
"Create" appeared as "ctate".  
"Clorox" appeared as "clore ox".  
"Golden Globes" appeared as "Gbebe".  
Again, words and sentences were deleted.

## 6) Unknown Date

"Marinated" appeared as "mare nated".  
"Vitamin C" appeared as "Vice min C".

"Recipes" appeared as "res piece".  
"Saltine" appeared as "sal teen".  
"Molasses" appeared as "mow lasses".  
"Thanksgiving" appeared as "Thanksgv".  
Again, words and sentences were deleted.

### C. The Apprentice: Donald Trump

#### 1) November 10, 2005

There were so many mistakes in the boardroom scene that I could not keep up with them.

"As" appeared as "ass".  
"Nearly" appeared as "norly".  
"Be fired" appeared as "beired".  
"Task" appeared as "tassnk".  
"Being at" appeared as "beingat".  
"Emperor" appeared as "pmprrer".  
"Road" appeared as "Rhode".  
"Rebecca" appeared as "Ra beck".  
"Represent" appeared as "splent".  
"True" appeared as "traw".  
"10:15" appeared as "10CLN15".  
"Have" appeared as "ve".  
"Heating" appeared as for "meeting".  
"Wbfuel" appeared as "want".

#### 2) November 17, 2005

The captioning didn't start until the task was assigned.

Many sentences and words were dropped.

"Honest" appeared as "honest".

Levi's name was misspelled.

The singer, Jide's name was misspelled.

Comments made between executives were deleted.

"Circumstance" was substituted for "circle."

"40 Wall Street" appeared as "40 Royal Street".

"Missed" was appeared as "mised".

"Story" appeared as "storing".

These errors are NOT indicative of problems only on NBC but are reflective of errors appearing on all of the stations. While some of these shows are filmed and captioned live, others like *The Apprentice: Donald Trump* are captioned as if it is live when it is pre-recorded. (This methodology seems typical for reality shows. I am told that the captioning is done live for fear that the ending will be revealed. Why will the captioner reveal the ending and none of the other television crew or staff?) We have found that while the errors are more prolific on live captioned shows, they are not limited to them as can be seen by the errors

on *The Happy Elf*.

## 2. United States Telecom Association's ("USTelecom") Comments

Many of the Comments that were submitted including USTelecom's (Page 9) suggest, "The Commission's rules as they currently exist are sufficient to ensure that timely and appropriate responses to viewer complaints." This is just not the case. In the last month and a half, (Some of my complaints predate the above and include other shows.), I have called Jeff Zucker's office at NBC regarding the above issues. From there, I was told to call Mark Burnett Productions; Vivi Ziegler, Head of Current Programming at NBC; Susan, the Post-Production Supervisor on the *The Apprentice: Donald Trump*; Mark Okrand, Director of Live Captioning for National Captioning Institute; Cathy Kelly Brown, SVP Corporate Communications at NBC; Michael Starobin, Producer at Martha and Phoebe Ziegler, Head of Current Programming at NBC. Consumers have absolutely no ability to track down the appropriate person. There needs to be a standardized form and contact. Clearly, since none of the problems are resolved, I have not located the correct point person.

## 3. The Radio-Television News Director's Association's ("RTNDA") Comments

In RTNDA's Comments (page 10), they opposed the "no exceptions" approach because they fear that in "certain critical circumstances even a blackboard and chalk or pen and paper may not be available." They are able to have working news camera but not a blackboard, chalk, paper or pen?

## 4. The Motion Picture Association of America, Inc.'s ("MPAA") Comments

The MPAA is concerned that if these rules were implemented then "these service contracts would likely become more complicated, more concerned with liability, and more expensive." So, the bottom line is that to fix the current problems with captioning, MPAA is concerned they will spend more money. Is this a reason for 28 million people to not watch quality captioning on television or receive emergency information?

## 5. National Association of Broadcasters' "NAB") and Hubbard Broadcasting, Inc.'s ("HBI") Comments

It is interesting that the captioning companies (CaptionMax, page 1; Media Captioning Services, page 19; National Captioning Institute, page 1 and WGBH National Center for Accessible Media, page 2) welcome stricter standards but the broadcasters (NAB page 18 and HBI page 13) do not. It seems counterintuitive. Perhaps, again the real issue is cost. Are the broadcasters afraid that they will have to pay more for improved captioning?

## CONCLUSION

The bottom line on all of the industry's issues is their fear that costs will increase to improve captioning quality. So, if the Petition is not adopted, the people who require appropriate captioning will suffer. The Director of The New Jersey Division on Civil Rights stated on page 6 of their comments that " without captioning, these communities are marginalized. This is the very curse of discrimination which the Division seeks to eliminate" and which the FCC should also seek to eliminate. Just as in divorce proceedings, the judge is required to determine what is in the best interest of the child and not what benefits or is convenient for the parents, so too should the FCC determine what is in the best interest of the deaf and hard of hearing community and not what is easiest or least costly for the industry. The goal of captioning is to be the functional equivalent of sound and should be nothing less.

Respectfully Submitted,

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